

**Effective 5/12/2015**

## **Chapter 13**

### **Veteran Benefits Assistance Act**

#### **71-13-101 Title.**

This chapter shall be known as the "Veteran Benefits Assistance Act."

Enacted by Chapter 123, 2015 General Session

#### **71-13-102 Definitions.**

As used in this chapter:

- (1) "Accredited" means a service organization representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.
- (2) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.
- (3) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.
- (4) "Claimant" means a person who has filed or has expressed to a service organization representative, agent, or attorney an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.
- (5) "Department" means the Utah Department of Veterans' and Military Affairs.
- (6) "Executive director" means the executive director of the Utah Department of Veterans' and Military Affairs.
- (7) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to an individual who is in violation of the provisions of this chapter.
- (8) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.
- (9) "VA" means the United States Department of Veterans Affairs.
- (10) "VA benefits" means any payment, service, commodity, function, or status entitlement which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors as well as other potential beneficiaries under United States Code, Title 38.
- (11) "Veteran" includes all eligible dependents.

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#### **71-13-103 Disclosure requirement for assisting a claimant.**

- (1) Each person offering to assist veterans in applying for benefits shall:
  - (a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions, Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the provisions of C.F.R., Title 38 pertaining to authorized claim representation under an attorney; and
  - (b) disclose in writing, in a format approved by the department that the claimant can retain, the federal laws, regulations, and rules governing assistance for VA benefits.
- (2) The disclosure required by Subsection (1)(b) shall specifically include:

- (a) the individual's name;
  - (b) the individual's business address;
  - (c) the individual's business phone number;
  - (d) the individual's registration number from the VA;
  - (e) a statement of the claimant's rights regarding the assistance for VA benefits, including that there is no charge to the claimant or a member of the claimant's family for assistance with the initial benefits application; and
  - (f) a statement that if, as a result of the individual providing assistance for a claim, income is accrued to the assisting individual from the sale of a product or other services to the claimant, the income is both justified and reasonable as compared with income from similar products and services available in the state.
- (3) No provisions of the form may be struck out or designated as nonapplicable.
- (4) Disclosure forms, when completed, shall be:
- (a) signed by both the individual providing assistance and the claimant; and
  - (b) retained for three years by the assisting individual.
- (5) Copies of the disclosure form shall be provided to:
- (a) the veteran on the day the form is completed and signed; and
  - (b) the department within five working days.

Enacted by Chapter 123, 2015 General Session

**71-13-104 Education requirements.**

- (1) All individuals and attorneys providing assistance to a veteran shall complete three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of initial accreditation; and
- (2) an additional three hours of qualifying continuing education every two years following the initial 12-month period.

Enacted by Chapter 123, 2015 General Session

**71-13-105 Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.**

- (1) The Utah Department of Veterans' and Military Affairs shall notify in writing each veteran for whom the department has contact information that any individual or business offering to assist veterans in applying for benefits shall disclose in writing to the veteran the following:
  - (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing assistance be accredited by the VA;
  - (b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and
  - (c) the department's website has a list with contact information of VA accredited claim representatives.
- (2) Beginning July 1, 2015, and every three years after the department shall:
  - (a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;

- (b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and
  - (c) notify the Department of Health regarding federal law governing the assistance for claimants applying for benefits, and the Department of Health shall notify all assisted living and nursing care facilities of those federal laws.
- (3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.
- (4) For violations by accredited or non-accredited individuals who offer assistance with VA benefits, the executive director may audit selected assisting individuals and referring entities for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Enacted by Chapter 123, 2015 General Session

**71-13-106 Exempt organizations.**

Accredited representatives of the following organizations are exempt from the provisions of this chapter:

- (1) American Legion;
- (2) Veterans of Foreign Wars;
- (3) Disabled American Veterans;
- (4) Vietnam Veterans of America;
- (5) American Veterans (AMVET);
- (6) Military Order of the Purple Heart; and
- (7) other VA recognized service organizations as determined by the executive director.

Enacted by Chapter 123, 2015 General Session